

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Self-Certification of VALOR)

Telecommunications of New Mexico, LLC and)

VALOR Telecommunications of Texas, LP)

as Rural Telephone Companies)

DA 00-1882

Federal-State Joint Board On)

Universal Service)

CC Docket No. 96-45

REPLY COMMENTS OF VALOR TELECOMMUNICATIONS SOUTHWEST, LLC

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EXECUTIVE SUMMARY

VALOR Telecommunications Southwest, LLC (“VALOR”) submits these reply comments in response to the comments filed by other parties on September 18, 2000, and in opposition to the petition of Western Wireless Corporation requesting that the Commission reject the certification by VALOR that its operating entities in New Mexico and Texas are rural telephone companies under section 3(37) of the Communications Act, as amended, 47 U.S.C. §153(37).

In addition to VALOR, two entities – the Independent Telephone and Telecommunications Alliance and Iowa Telecommunications Services, Inc. – filed comments in opposition to Western Wireless’ petition. Only one entity, Leaco Rural Telephone Cooperative, Inc. (“Leaco”), filed comments supporting the petition. Leaco is a rural telephone cooperative in southeastern New Mexico with approximately 2,500 local exchange access lines. It also holds a CMRS license and is just starting a CLEC operation to compete against VALOR in Hobbs, New Mexico.

Without any analysis of the underlying statute or congressional intent, Leaco claims that VALOR’s operating entities cannot be rural telephone companies because (1) they were not in existence in 1996 when the Telecommunications Act was enacted, and (2) they purchased their access lines from GTE. Leaco also falsely accuses VALOR’s operating entities of engaging in anti-competitive behavior, and therefore claims that the Commission should deprive these entities of their rural telephone company status. Leaco’s arguments, borrowed largely from Western Wireless, are wholly without merit, either factual or legal.

As VALOR addresses in more detail below, the Commission should reject Leaco's (and Western Wireless') arguments, and dismiss Western Wireless' petition for the following reasons:

1. Under the plain meaning of section 3(37)(D), VALOR's Texas and New Mexico operating entities are both rural telephone companies because neither has more than 15% of their access lines in communities of more than 50,000 on the date of the enactment of the Telecommunications Act. VALOR's New Mexico operating entity also qualifies as a rural telephone company under subsection (C) because it operates in two separate study areas, each of which has substantially less than 100,000 access lines. Applying the plain meaning of the statute to these facts, as the Commission is required to do, is dispositive of Western Wireless' petition, and the Commission need not consider any of the so-called policy arguments raised by Western Wireless and Leaco.

2. Contrary to the arguments of Western Wireless and Leaco, it would be against the public interest to deprive VALOR of rural telephone company status, since VALOR has made substantial and unprecedented commitments to improve and expand advanced and high-speed data services in the rural exchanges it purchased from GTE. If VALOR is denied rural telephone company status under the circumstances presented here, then other small carriers will be deterred from purchasing rural exchanges from larger carriers, and customers will be deprived of the benefits that the smaller carriers are more likely to provide.

3. Leaco's and Western Wireless' principal accusation of "anti-competitive conduct" by VALOR is based on the sole fact of VALOR's participation in Western Wireless' and Leaco's ETC proceedings before state commissions in Texas and New Mexico. VALOR has an unquestioned First Amendment right to participate in these proceedings,

and such conduct, under settled case law from the United States Supreme Court, cannot constitute "anti-competitive conduct." Such conduct is not only constitutionally protected, it is the essence of meaningful regulatory proceedings to have affected companies appear and present points of view to public officials charged with making decisions.

4. Also contrary to the allegations of Leaco and Western Wireless, VALOR has been pro-competitive towards the CLECs in its service territories. VALOR has not claimed any exemption from interconnection under section 251(f) of the Act, and VALOR has agreed to take assignment of all of GTE's interconnection agreements with CLECs operating in VALOR's service territory, even though GTE wanted to terminate those agreements and had the legal right to do so under "termination upon sale" provisions contained in those agreements.

5. The Commission need not deprive VALOR of its rural telephone company status – a remedy that would have potentially devastating effects upon VALOR and its rural customers – in order to provide relief to an ETC applicant such as Western Wireless. If warranted, the Commission has authority under section 214(e)(5) and 47 C.F.R. §54.207(c) to change a rural telephone company's service area to something other than its study area in order to provide relief to a competing ETC, like Western Wireless, that does not provide service in all of the rural telephone company's study area. Such a focused, targeted proceeding, tailored precisely to this issue, is far preferable on both legal and policy grounds, than the overbroad and destructive remedy which Western Wireless seeks here – stripping VALOR of its rural telephone company status for all time and for all purposes.

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REPLY COMMENTS OF VALOR TELECOMMUNICATIONS SOUTHWEST, LLC

VALOR Telecommunications Southwest, LLC ("VALOR") submits these reply comments in response to the comments filed by other parties on September 18, 2000.

I. INTRODUCTION

Three parties other than VALOR filed comments in response to the Commission's Public Notice.¹ Two of these parties – the Independent Telephone and Telecommunications Alliance ("ITTA") and Iowa Telecommunications Services, Inc. ("Iowa Telecom") – concur with VALOR that granting Western Wireless' petition to reject VALOR's rural telephone company status would be not only contrary to law, but poor public policy as well. The third commenter--Leaco Rural Telephone Cooperative, Inc. ("Leaco")-- opposes VALOR's rural telephone company certification by relying on baseless accusations that VALOR has used (and will use) its rural telephone company status to somehow "impede competition" in New Mexico. Leaco is a 2,500 line

¹ In addition to these commenters, the Texas Public Utility Commission ("PUC") filed a statement expressing an intent to file comments at some date in the future. VALOR respectfully requests the right to respond to any late-filed comments from the Texas PUC.

incumbent local exchange carrier in southeastern New Mexico that also has a CMRS license and competes as a CLEC with VALOR in Hobbs, New Mexico.

As discussed in more detail below and as is specifically addressed in Exhibit A hereto (September 20, 2000 Letter from Anne K. Bingaman, Chairman and CEO of VALOR to John E. Smith, Executive Vice President and General Manager of Leaco) ("Bingaman Letter"), there is no merit – either factual or legal – to Leaco's accusations. VALOR's operating entities in Texas and New Mexico meet the statutory definition of a rural telephone company under section 3(37) of the Telecommunications Act of 1996 ("Act"), 47 U.S.C. § 153(37). Moreover, both operating entities have acted entirely *pro*-competitively, as neither has claimed an exemption from interconnection obligations under section 251(f) of the Act, and both have agreed to take assignment of GTE's interconnection agreements with CLECs in Texas and New Mexico, even though GTE wanted to terminate those agreements and had the legal right to do so.

Finally, the Commission should not take the drastic step of denying VALOR its rural telephone company status in order to enable Western Wireless to meet the legal requirements to be designated an eligible telecommunication carrier ("ETC") under Section 214(e) of the Act. There are procedures in the Commission's regulations pursuant to which VALOR's service area can be revised, if such a revision is warranted.

II. ARGUMENT

A. SECTION 153(37)(D) IS NOT RESTRICTED ONLY TO CARRIERS IN EXISTENCE ON THE DATE THE TELECOMMUNICATIONS ACT WAS PASSED

Without any analysis of the language of the statute or its underlying purpose, Leaco simply adopts the argument first advanced by Western Wireless--that only carriers in existence on the date the Telecommunications Act was enacted can be rural

telephone companies under section 3(37)(D).² Leaco therefore argues that VALOR's operating entities cannot be rural telephone companies under subsection (D) because they were not created until 1999.³

As VALOR discussed in its opening comments, and as ITTA and Iowa Telecom agree, this argument is contrary to the plain meaning of the statute;⁴ it also ignores the statutory interpretation principle known as the "Last Antecedent Rule," a principle based on fundamental rules of grammar. Subsection (D) defines a rural telephone company as a carrier that "has less than 15% of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996." For it to mean what Western Wireless and Leaco claim it means, the statute would have to define a rural telephone company as a carrier that "had, on the date of the enactment of the Telecommunications Act in 1996, less than 15% of its access lines in communities of more than 50,000."

Clearly, the statute does not say this. Instead, as Iowa Telecom correctly noted in its comments, the subsection is worded such that the "grandfather" phrase, "on the date of the enactment of the Telecommunications Act of 1996," applies to the population of the communities, not to when the carrier was created.⁵ Thus, under the plain

² Comments of Leaco Rural Telephone Company, Inc. ("Leaco Comments"), filed September 18, 2000, at 3.

³ *Id.*

⁴ Comments of Independent Telephone & Telecommunications Alliance ("ITTA Comments"), filed September 18, 2000, at 3; Comments of Iowa Telecommunications Services, Inc. ("Iowa Telecom Comments"), filed September 18, 2000, at 2.

⁵ Iowa Telecom Comments at 2-3.

meaning of section 3(37)(D), VALOR'S operating companies in both New Mexico and Texas meet the requirement to be a rural telephone company.

B. THE FACT THAT VALOR PURCHASED ITS ACCESS LINES FROM GTE DOES NOT DISQUALIFY IT FROM BEING A RURAL TELEPHONE COMPANY UNDER THE LAW.

Under the Chevron decision,⁶ the Commission must apply the plain meaning of the statute, which in this case results in an irrefutable conclusion that VALOR's operating companies in Texas and New Mexico are rural telephone companies. There is simply no basis in law or fact for Leaco's argument, borrowed wholesale from Western Wireless, that VALOR cannot be a rural telephone company because GTE was allegedly not a rural telephone company.⁷

First, there is no provision in the Act--and neither Leaco nor Western Wireless point to any--that disqualifies a carrier from rural telephone company status if that carrier has purchased its local exchange access lines from a non-rural carrier. As ITTA noted in its comments:

Exchanges do not become "disqualified" simply because they were at some point owned by a non-RTC. Rather, section 3(37) specifies that an RTC is a carrier that meets certain prescribed criteria, regardless of the former ownership of its constituent exchanges. Nothing in the Act makes the prior owner of the exchange a determining factor.⁸

Second, as VALOR pointed out in its initial comments, GTE's operating entity in New Mexico was certified as a rural telephone company prior to the transaction with

⁶ *Chevron USA v. Natural Resources Defense Council, Inc.* 467 U.S. 837, 842-845, 104 S.Ct. 2778, 2781-83 (1984).

⁷ Leaco Comments at 3.

⁸ ITTA Comments at 4 (emphasis in original.)

VALOR, qualifying for that status under both 153(37)(C) and (D). Thus, Leaco and Western Wireless are simply wrong to suggest that GTE was a non-rural carrier in all of its jurisdictions.⁹

Finally, in addition to impermissibly grafting an exception onto the Act where none exists, the adoption of a "once non-rural, always non-rural" principle as advocated by Leaco and Western Wireless would be contrary to the public interest. As ITTA points out in its comments,¹⁰ such a rule would discourage smaller carriers from purchasing low density, rural exchanges from large carriers--exchanges that large carriers frequently ignore and which need attention and upgrading from carriers such as VALOR, whose operations are focused solely on the rural market. If smaller carriers are deterred from purchasing these exchanges because they are wrongly denied status as rural telephone companies, customers in these exchanges will not receive the benefits of the improved and expanded services that smaller carriers are more likely to provide.

The transaction between VALOR and GTE provides an example of a smaller carrier providing improved and expanded service to its rural customers. VALOR has committed in both Texas and New Mexico to substantially improve the quality of service in the exchanges it purchased from GTE, and also to provide services that GTE did not offer and did not plan to offer in many of those exchanges, including full CLASS services in every exchange in its service territory within 24 months after close of its

⁹ Pursuant to the Commission's order, whether a carrier is a rural telephone company under the Act must be determined by looking at the operating entity level, not at the holding company level. See *Federal-State Joint Board on Universal Service*, CC Dkt. 96-45; *Forward-looking Mechanism for High-cost Support for Non-rural LECs*, CC Dkt. 97-160, Tenth Report and Order, 14 FCC Rcd 20156, 20355 (1999).

¹⁰ ITTA Comments at 5-6.

transaction with GTE, and high speed data services, including DSL, in every exchange over 5,000 access lines and in even smaller communities, where sufficient demand is present. To deny rural telephone company status to VALOR would harm its customers by potentially blocking VALOR's access in the future to rural universal service funds to make these and other upgrades. No fair-minded public policy focused on bringing advanced services to rural customers should deny rural telephone company status under these facts.¹¹

C. VALOR HAS BEEN PRO-COMPETITIVE IN EVERY RESPECT AND ACCUSATIONS TO THE CONTRARY ARE BASELESS AND MISLEAD THIS AGENCY.

Most of Leaco's comments consist of harsh and wholly unfounded accusations that VALOR is "harassing much smaller competitors" and is "intent upon using its rural telephone company status...for anti-competitive purposes."¹² These accusations are similar to the accusations made by Western Wireless in its petition. As purported evidence of this anti-competitive behavior, Leaco (much like Western Wireless before it) cites VALOR's intervention in a pending proceeding in which Leaco, operating as a CLEC, seeks designation as an eligible telecommunications carrier ("ETC") under section 214(e) of the Act.¹³ However, what Leaco tries to hide from the Commission, by

¹¹ See *In the Matter of the Proposed Alternative Form Of Regulation Plan for VALOR Telecommunications of New Mexico, LLC*, Utility Case No. 3358, *Final Order on Joint Petition and Stipulation*, issued June 27, 2000, at Ex. A, p. 5; *Applications of VALOR Telecommunications of Texas, LP, for Approval of Sale Transfer or Merger, Issuance of a Certificate of Convenience and Necessity, Designation as an Eligible Telecommunications Provider, and Designation as an Eligible Telecommunications Carrier*, Docket No. 21834, issued June 14, 2000 at 11-12.

¹² Leaco Comments at 1, 5.

¹³ *Id.* at 2-6.

burying in footnotes in its comments, is the fact that VALOR *withdrew* as an intervenor after ascertaining facts not apparent from Leaco's initial application, and did *not* oppose Leaco's ETC application at the hearing on the matter. (See Bingaman Letter, Exhibit A.)

But even if VALOR had not withdrawn as an intervenor in the Leaco ETC proceeding, its participation in that proceeding, or in the ETC proceedings initiated by Western Wireless, cannot be deemed "anti-competitive," nor can it provide any possible basis for disqualification as a rural telephone company. VALOR will be affected by the designation of Leaco or Western Wireless as an ETC in VALOR's service area. VALOR is entitled to participate in these proceedings to ensure that Leaco and Western Wireless comply with the same legal requirements with which VALOR must comply to be designated as an ETC. VALOR is simply exercising its First Amendment right to petition the Government in public proceedings that affect its rights and operations. Under well-settled constitutional case law dating back at least to the Supreme Court's decision in *Eastern RR Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 81 S.Ct. 523 (1961), such participation in a public proceeding cannot be deemed anti-competitive and used as the basis for depriving VALOR of its status as a rural telephone company under federal law.¹⁴ To allege that VALOR should be stripped of its status as a rural telephone company simply because it intervened in Leaco's and

¹⁴ In *Noerr Motor Freight*, the Supreme Court rejected antitrust liability stemming from a lobbying campaign by railroads to persuade states to adopt legislation that would severely limit competition from truckers. The Court explained that "[in] a representative democracy such as this . . . the whole concept of representation depends upon the ability of the people to make their wishes known to their representatives." *Id.* at 137, 81 S.Ct. 523. The decision in *Noerr Motor Freight*, one of the foundations of what has become known as the "Noerr-Pennington doctrine," has been relied upon to dismiss lawsuits brought against companies whose alleged "anti-competitive conduct" was participation in proceedings before regulatory agencies. See, e.g., *Kottle v. Northwest Kidney Centers*, 146 F.3d 1056 (9th Cir. 1998); *Tarabishi v. McAlester Regional Hospital*, 951 F.2d 1558 (10th Cir. 1991).

Western Wireless' ETC proceedings seeks, in effect, to punish it for exercising its constitutional rights. Such action would deter other rural telephone companies across the country from participating in public proceedings initiated by Western Wireless and other competitive carriers seeking ETC status for fear that they would lose their rural status under accusations that such participation would be labeled anti-competitive conduct.

Contrary to Leaco's accusations, Leaco also hides from the Commission the fact that VALOR has acted pro-competitively with respect to CLECs in Texas and New Mexico in two very important ways. First, VALOR has not claimed any rural exemption from interconnection under section 251(f) of the Act, and has welcomed the competition CLECs will provide. Second, VALOR has agreed to take assignment of all of GTE's interconnection agreements with CLECs in Texas and New Mexico, even though GTE desired to terminate those agreements and had the legal right to do so under "termination upon sale" provisions that were contained in the agreement. (See Bingaman Letter, Exhibit A.) Clearly, VALOR's commitment to take assignment of these agreements is *pro*-, not anti-competitive, because it enables Leaco and other CLECs to proceed with their business under agreements that have been negotiated and approved by the state commissions, without the delay and expense associated with negotiating new agreements with VALOR.

Finally, Leaco's accusations are not only contrary to fact, they are legally irrelevant. There is absolutely nothing in section 3(37) that suggests that rural telephone company status is dependent on the conduct of a carrier in the marketplace toward its competitors or potential competitors. A carrier is a rural telephone company if

it meets any one of the four criteria laid out in the statute, and how its actions may be perceived — and mischaracterized — by its competitors is simply irrelevant.

D. THE COMMISSION HAS AMPLE AUTHORITY UNDER THE ACT TO PROVIDE RELIEF TO COMPETING ETCs, IF NECESSARY, WITHOUT REJECTING A CARRIER'S RURAL TELEPHONE COMPANY STATUS

Western Wireless is requesting that this Commission reject VALOR's rural telephone company status because VALOR intervened in proceedings in both Texas and New Mexico in which Western Wireless is seeking designation as a competing ETC. In both proceedings, Western Wireless has conceded that it will not offer the required services in all of VALOR's study areas, as required by section 214(e)(1) of the Act and section 54.207 of the Commission's regulations.¹⁵ In an action that swings a sledge hammer where a scalpel would be more appropriate, Western Wireless now wants VALOR to be stripped of its rural telephone company status for all purposes, so that Western Wireless will not be obligated to serve VALOR's entire study areas as a prerequisite to ETC designation.

The Commission should not resort to such a drastic remedy. Congress, under section 214(e)(5), and this Commission, under section 54.207(c), have both authorized changing a rural telephone company's service area to something other than its study area. Indeed, the Administrative Law Judge's proposed decision in the Western Wireless proceeding in Texas recognizes this as a possible solution to enabling Western Wireless to be designated as an ETC, even though Western Wireless only

¹⁵ 47 C.F.R. § 54.207.

intends to provide service in 119 of the 197 exchanges in VALOR's study area.¹⁶ Thus, pursuant to this Commission's regulations, the Texas PUC can petition the Commission to re-define VALOR's service area in the context of Western Wireless' application to be designated as an ETC, if the Texas PUC believes that it is necessary and appropriate, and consistent with recommendations from the Federal-State Joint Board.

In short, there is a specific procedure recognized by federal law to address the purported harm alleged by Western Wireless. That procedure should be followed, rather than the overbroad and destructive remedy proposed by Western Wireless and Leaco. Their remedy, which would deprive VALOR of rural telephone company status for all time and for all purposes, would be potentially devastating for VALOR and the customers it serves, because it may eventually prevent VALOR from obtaining the funds necessary to modernize and upgrade the telephone plant and expand and improve service in its rural exchanges in Texas and New Mexico with further advanced and broadband services.

E. VALOR NEW MEXICO ALSO MEETS THE CRITERIA OF A RURAL TELEPHONE COMPANY UNDER SECTION 153(37)(C)

As noted in its initial comments and as is evident from its certification letter to the Commission, VALOR New Mexico also meets the criteria of section 3(37)(C) because it operates in two separate study areas, each of which has substantially less than 100,000 access lines. Leaco's response is that VALOR, with its two New Mexico study areas, is "gaming the high-cost support system," and is operating contrary to Commission "policy" that ILECs have only one study area per state. Neither argument has merit.

¹⁶ *Applications of WWC Texas RSA Limited Partnership for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider Pursuant to 47 U.S.C. §214(e) and PUC Subst. R. 26.417 and 26.418, PUC Docket Nos. 2289 and 2295, Proposal for Decision, issued September 28, 2000, at 29.*

VALOR is not "gaming" anything by operating in two study areas; VALOR is simply following the Commission's existing rules freezing study area boundaries.¹⁷ The purpose of the freeze is to prevent subdivision of those study areas for the purpose of maximizing universal service fund eligibility.¹⁸ GTE previously operated in New Mexico in two study areas. GTE's sale of all of its local exchange assets in New Mexico to VALOR did not result in a subdivision of either study area.

Nor is there any express Commission policy that an ILEC must only operate in one study area per state. In fact, there are numerous examples of carriers that operate in multiple study areas in a single state. Leaco's citation to the order granting VALOR its study area waiver in Texas is a boilerplate description of the study area process, not a statement of Commission policy that carriers must only operate in one study area in each state.

Finally, the fact that VALOR Southwest can be characterized as a "mid-sized" carrier when the operations of its entities in all three states are combined does not affect the legal analysis that must be made under section 153(37) of the Act. The Commission has determined that whether a carrier is a rural telephone company must be determined by looking at the operating entity level, not at the holding company level.¹⁹ Leaco and Western Wireless, by referring to VALOR as a "mid-sized carrier"

¹⁷ 47 C.F.R. Part 36, Appendix-Glossary.

¹⁸ *MTS and WTS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision and Order, 49 Fed. Reg. 48325 (1984).

¹⁹ *Federal-State Joint Board on Universal Service, CC Dkt. 96-45; Forward-looking Mechanism for High-Cost Support for Non-Rural LECs, CC Dkt. 97-160*, Tenth Report and Order, 14 FCC Rcd 20156, 20355 (1999).

would have the Commission ignore the statute and its own order regarding the determination of rural telephone company status.²⁰ Under the rules as established by Congress and this Commission, VALOR's operating entities in Texas and New Mexico, meet the criteria to be rural telephone companies.

That VALOR's operating entities meet the legal criteria is understandable, as the overwhelming percentage of its exchanges are rural in nature. In Texas, for example, 112 of VALOR's 197 exchanges have less than 1,000 access lines, and another 65 exchanges have between 1,000 and 3,000 access lines. In New Mexico, 22 of its 37 exchanges have less than 1,000 access lines. These characteristics prove without a doubt that VALOR's operations in New Mexico and Texas are rural in nature. VALOR's certification to this Commission that its operating entities in these two states qualify for rural telephone company status should be affirmed.

²⁰ "Mid-size carrier" is an industry term that has no legal or regulatory significance.

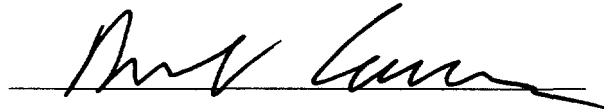
III. CONCLUSION

For the foregoing reasons, as well as for the reasons set forth in VALOR's initial comments and in the comments filed by ITTA and Iowa Telecom, VALOR respectfully requests that the Commission dismiss Western Wireless' petition.

Respectfully submitted,

VALOR Telecommunications of New Mexico, LLC

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Exhibit A

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September 20, 2000

VIA FACSIMILE – 505-398-6060

Mr. John E. Smith
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RE: Withdrawal or correction of comments filed by
Leaco in FCC on September 18, 2000

Dear John:

I was out sick last week, and have just been apprised of the comments filed by Leaco's Washington law firm, Bennett & Bennett, in the FCC proceeding concerning VALOR's rural telephone company status. On September 21st, VALOR's attorney, Rocky Unruh, spoke to and wrote Gene Samberson strongly protesting those comments and asking that they be withdrawn. Gene told Rocky he had not seen the comments and would look into it. We have had no response from Leaco at all. Under the circumstances, until we get a response and understand Leaco's position, we cannot proceed with the settlement meeting scheduled tomorrow in Albuquerque for the following reasons.

In its FCC comments, Leaco alleges without support that VALOR is "anticompetitive," and states that VALOR is "harassing" Leaco, that we are seeking to "stymie competition," and that VALOR is "intent upon using its rural telephone company's status for anticompetitive purposes." These claims are totally false and completely misrepresent the facts of what has occurred between our two companies since we signed the contract to purchase the GTE lines. In fact, as the following course of conduct that VALOR has engaged in makes clear, we have been in complete good faith and our conduct has been entirely pro-competitive. Three points make this clear.

1. VALOR has committed to take assignment of Leaco's existing interconnection agreements with GTE. As you know, GTE originally wanted to terminate its interconnection agreements with Leaco, which it had the legal right to do under the "termination upon sale" provisions in these

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agreements. VALOR convinced GTE not to take that course, and we committed to take a simple assignment of the agreements with only minor modifications. We did not rely on our rural telephone company status to refuse interconnection with Leaco. In fact, to the contrary, by voluntarily agreeing to take assignment of Leaco's existing interconnection agreements with GTE, we have attempted to make Leaco's interconnection easy and efficient, and in the spirit of the Telecommunications Act.

2. **VALOR has worked to facilitate resolution of the Leaco/GTE "reverse billing" dispute.** Before VALOR purchased the GTE properties in New Mexico, Leaco and GTE had been engaged for over a year in a dispute over "reverse billing" (and other issues) with no apparent progress toward resolution of that dispute. Through VALOR's efforts with our attorney, Rocky Unruh, working with your attorney, Gene Samberson, we have engaged GTE in an effort to resolve the reverse billing issues, and have worked in the utmost good faith to get these issues resolved.
3. **Valor's withdrawal of its opposition to Leaco's ETC application.** VALOR did intervene in Leaco's original ETC proceeding, because it was unclear to us from the face of the application whether Leaco intended to serve our entire study area, as federal law requires. When we received Leaco's rebuttal testimony, and it became clear that Leaco did intend to serve our entire study area, VALOR withdrew as an intervenor in that proceeding and did not oppose Leaco's application.

Incredibly, Leaco's FCC brief implies strongly that we opposed Leaco's ETC status, when in fact we voluntarily withdrew our opposition. Leaco's attorneys in Washington chose to emphasize the original intervention but to bury in a footnote the fact that we withdrew and did not contest Leaco's ETC application at the hearing.

In sum, the brief filed by Leaco in the FCC is in bad faith. It completely and deliberately misstates facts, and threatens to do great harm to our company by deliberately misleading a federal agency. In a letter from Rocky Unruh to Gene Samberson on September 21, 2000, we earnestly requested that Leaco withdraw its brief to the FCC. Since our request has been met with silence, I do not feel that the company can responsibly continue with the meeting tomorrow as if nothing had happened.

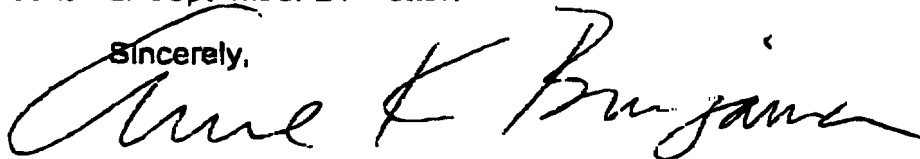
We have dealt with Leaco in the utmost good faith for almost 12 months now. Leaco has not dealt in good faith with us, however. Under these circumstances, I have directed our company representatives not to participate in the planned meeting tomorrow, and to await a response from Leaco to our September 21st

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Leaco Rural Telephone Cooperative, Inc.
September 27, 2000
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request before deciding on a further course of action. We have told GTE we will not be participating tomorrow, but it is completely between GTE and Leaco whether tomorrow's meeting should proceed.

We await Leaco's response to our September 21st letter.

Sincerely,

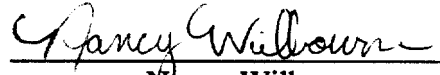
A handwritten signature in black ink, appearing to read "Anne K. Bingaman". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Anne K. Bingaman

cc: C. Gene Samberson
Leaco's New Mexico counsel

CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of Valor Telecommunications Southwest, LLC" was served on this 3rd day of October 2000, by first class, U.S. mail, postage prepaid to the following parties:


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Commissioner Michael Powell *
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Commissioner Harold W Furchtgott-Roth *
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Commissioner Gloria Tristani *
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